

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

HELEN J. VIRGIL

PLAINTIFF

NO. 1:17CV00119-JMV

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

FINAL JUDGMENT

This cause is before the court on Plaintiff's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration denying claims for a period of disability and disability insurance benefits. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The court, having reviewed the administrative record, the briefs of the parties, and the applicable law, and having heard oral argument, finds as follows:

Consistent with the court's ruling from the bench during a hearing held September 11, 2018, the court finds the ALJ's decision is not supported by substantial evidence in the record for the period February 1, 2016¹, through October 19, 2016. Specifically, the ALJ failed to properly consider the claimant's low back impairment which was documented by a February 25, 2016, MRI report and later diagnoses (all within the relevant period) of moderate spinal stenosis

¹ Plaintiff testified before the ALJ that it was approximately February 3, 2016, when she "caught a cramp in the back of . . . [her right] hip" and, thereafter, needed to use a cane to get around. Further, treatment records dated February 14, 2016, indicate Plaintiff alleged her "right leg pain started two weeks ago." Tr., Ex. 17F-6.

at L4-L5, right foraminal stenosis at L5-S1, multilevel disc degenerative change, annular tear of lumbar disc, etc. The ALJ dismissed this evidence without any determination of whether the condition, in combination with the claimant's other severe impairment, was expected to last for a continuous period of at least twelve consecutive months. *See* 20 C.F.R. § 404.1505(a). Nor did the Appeals Council properly consider the claimant's low back impairment when it adopted the ALJ's decision for the period February 1, 2016, through October 19, 2016.

On remand, the ALJ will reconsider the evidence in the file for the period February 1, 2016, through October 19, 2016, and ensure that the record is fully developed with regard to the claimant's low back impairment for said period. To the extent necessary, the ALJ will obtain supplemental vocational expert evidence and render a new decision for the period February 1, 2016, through October 19, 2016.

IT IS, THEREFORE, ORDERED AND ADJUDGED that this case is REVERSED in part and REMANDED for further proceedings.

This, the 14th day of September, 2018.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE